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MEMORANDUM

TO: Social Security Reporting Officials

FROM: Mary E. Smith *MES*  
Director OASI Agency

DATE: May 11, 2005

SUBJECT: **SOCIAL SECURITY COVERAGE AND REPORTING**

**The Debate Continues ... The Future of Social Security**

We are obviously watching the debate in Washington over what will happen to Social Security and how it will affect state and local government employees. Two interesting proposals that are being batted around in Washington are: (1) Cover all government employees for Social Security, and (2) modify the Social Security wage maximum.

Most all state and local government employees in Tennessee are covered under a Section 218 agreement for Social Security. Some police and firefighter positions, special districts, and a few cities and political subdivisions are not included under the state's Section 218 Agreement. There are considerations being discussed that would remove that provision and simply require everyone (including current employees) participate in Social Security.

The 2005 maximum for Social Security (6.2%) contributions is \$90,000. Under the current law, employees and employers contribute up to the \$90,000 maximum. Any wages above \$90,000 for 2005 are exempt for Social Security purposes. There are proposals to modify the maximum wages for Social Security purposes which, of course, would mean a continuation of the employer and employee contributions. (*Note: Currently, the Medicare Tax of 1.45% is assessed on all taxable wages.*)

As we receive any changes to the current situation concerning Social Security, we will post that information on our website at [www.treasury.state.tn.us/oasi](http://www.treasury.state.tn.us/oasi).

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### SSA Garnishment Wages to Employers

On or about April 15, 2005, the Social Security Administration will begin administrative wage garnishment orders to collect delinquent debts owed by former beneficiaries of the Social Security and Supplemental Security Income (SSI) programs. Wage garnishment is a process in which an employer withholds up to 15% from an employee's disposable wages and pays that money to the employee's creditor until the debt is paid, or otherwise resolved.

Administrative wage garnishment is authorized by the Debt Collection Improvement Act of 1996 and does not require a court order. *It is important to note that an employer who does not comply with the wage garnishment order can become liable for any amounts that should have been withheld from the worker's pay, as well as punitive damages.*

Social Security will send a notice to employers each month explaining the status of the debt. If employers have any questions when they receive a wage garnishment order, they should contact Social Security at the telephone number shown on the order.

### New Form Required

A new law requires state and local government employers to provide a statement to employees hired on or after January 1, 2005 in a position not covered by social security. The statement explains how a pension from that job could affect future social security benefits.

**Form SSA-1945** is the document that employers should use to meet the requirements of this law. Such employers must:

- (1) Give the statement to a non-covered employee prior to the start of employment;
- (2) Get the employee's signature on the form; and
- (3) Submit a copy of the signed form to the retirement system where the employee has coverage.

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### 2005 Form 941 Update

The IRS has updated Form 941 and Form 941b for Tax Year 2005. There have been no changes to Form 941c. You can access these forms on our website at [www.treasury.state.tn.us/oasi](http://www.treasury.state.tn.us/oasi).

### Cash Equivalent Gift Certificates are Now Taxable Wages

Due to an American Airlines, Inc. court case, the IRS now considers cash equivalent gift certificates as cash. This means cash equivalent gift certificates are no longer considered a non-taxable De Minimis Fringe Benefit. This is a major change in IRS position and the IRS has changed the Fringe Benefit guide to comply with this issue.

According to IRS sources, if an agency is ever questioned on the issue in an audit or compliance check, the entities should be able to rely on the training materials to provide them with reasonable cause so that they will not be subject to penalties.

*Note: A cash equivalent gift certificate is defined as an item that can be converted to cash. An example of this would be a department store gift certificate that could be used for anything.*

Restricted gift certificates limited to specific non-cash items, such as a holiday turkey or coffee drinks, are still considered a non-taxable De Minimis Fringe Benefit.

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